

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A

Florida Supreme Court
Case No.: SC00-2226

JUDGE: CYNTHIA A. HOLLOWAY
NO.: 00-143

AMENDED
NOTICE OF FORMAL CHARGES

TO: The Honorable Cynthia A. Holloway,
Circuit Judge, Thirteenth Judicial Circuit,
Hillsborough County Courthouse, 419 Pierce Street,
Tampa, Florida 33602-4022.

YOU ARE HEREBY NOTIFIED THAT the Investigative Panel of the Florida Judicial Qualifications Commission, by a vote of at least five members at its meeting held in Miami, Florida on June 8, 2001, has determined, pursuant to Rule 6 of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, Section 12(b) of the Constitution of Florida, that probable cause exists for formal proceedings to be instituted against you.

Formal proceedings accordingly are hereby instituted to inquire into the following charges:

1. You were a witness in the case of *Adair v. Johnson*, No. 97-11697, Circuit Court of Hillsborough County ("the Adair case"), and a close friend of Ms. Robin Adair, the petitioner in that case. During the pendency of this case you abused your powers as a judge, and improperly utilized the prestige of your office by the following actions:
 - a. On or about February 24, 2000, you telephoned Detective John Yaratch of the Tampa Police Department, who was

then conducting a criminal investigation involving the parties in the Adair case, and sought to influence his investigation, *inter alia*, by suggesting that an interview of the daughter of the parties be held at the Child Advocacy Center, by furnishing Det. Yaratch with your cellular phone number, and by requesting that he keep you apprized on developments in the case.

- b. Between the time of the conversation of February 24, 2000 and approximately March 3, 2000, you again spoke with Det. Yaratch about his case, seeking to influence his investigation.
- c. On or about March 3, 2000, you entered the hearing room of the Honorable Ralph C. Stoddard, presiding judge in the Adair case, and spoke to Judge Stoddard, about the case in the presence of others in a loud, angry, and temperamental manner, and shook your finger at Judge Stoddard. Among other things, you criticized the time it took for the parties in the Adair case to obtain an emergency hearing in Judge Stoddard's Division, criticized Judge Stoddard's leaving the daughter of the parties in the custody of a third party, stated it would be of concern to you if the respondent father might obtain custody of the child and insisted or demanded that Judge Stoddard hold an early hearing in the matter. In an attempt to influence

Judge Stoddard's decision in the case, you described the petitioner and her daughter as "the two people in the world dearest to me", and stated that the petitioner was a good mother who was protective of her child. This *ex parte* contact contributed to Judge Stoddard's recusal in the case.

2. On or about March 3, 2000, while in the Chambers of Judge Stoddard you falsely suggested and/or implied that Ronald Russo, attorney of the respondent in the Adair case had an improper hold on Judge Stoddard.
 - a. In addition, you demeaned the judicial office by making a crude remark to Judge Stoddard by implying that the respondent in the Adair case "must have pictures (with Judge Stoddard) and a dog, and that's why somebody can get something out of you and nobody else can."
3. On or about July 19, 2000, in Tampa, Florida, you were deposed in the *Adair* case by the respondent acting *pro se*. Upon being duly sworn you testified as follows:

Q. Have you or anyone in your office ever contacted law enforcement about this case?

A: Yes.

Q: Who and when, if you can recall?

A: I thing just to determine who was going to investigate the most recent allegation, just to find out the name of the detective attached to the file.

Q: Did you ever speak to the detective?

A: I've spoken to the detective a lot, but not necessarily about this case.

I don't really recall whether I spoke to him directly or not.
I don't believe that I did.

This testimony was false or misleading because you had in fact contacted Detective Yaratch as set forth in paragraph 1(a), above.

4. On or about July 19, 2000, in Tampa, Florida, you were deposed in the Adair case by the respondent acting *pro se*. Upon being duly sworn you testified as follows:

Q: When did you learn that Parker [the daughter of the petitioner and respondent] had been sheltered?

A: On a Saturday morning. I don't really recall the date or the time. I was at the baseball field, I think, or softball field.

Q: Did Cindy Tigert call you?

A: Yes.

Q: What was your reaction?

A: I was shocked.

Q: Did you do anything in response to that development in the case?

A: I don't recall being able to do anything at that point.

Q: Did you contact Ralph Stoddard?

A: No.

Q: Did you telephone him, contact him in anyway?

A: No.

Q: Did you go see him?

A: No.

This testimony was false or misleading in that you in fact did contact and speak with Judge Stoddard concerning the *Adair* case as set forth in paragraph 1(c), above.

5. On or immediately before August 8, 2000, you executed an errata sheet to your
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ed in
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and 4,
stating:

Page 5, Line 9 - “the word “close” should be closest.”

Page 35, Line 19 - [the testimony quoted in paragraph 2 above] - This deposition was taken after I had spent three hours at the funeral of Harry Lee Coe. Upon further reflection, I do recall a brief telephone conversation with Detective Yaratch. During this conversation, I informed Detective Yaratch that I did not want to discuss the facts of this investigation but hoped that the investigation would be handled in a timely fashion.

Page 38, Line 22 through Page 39, Line 15 - [the testimony quoted in paragraph 3 above]- My responses to these questions relate to the Saturday of the emergency shelter hearing referenced on Page 38, Line 24.

Despite these purported corrections, your testimony relating to your conversation with Detective Yaratch remained false and misleading because your testimony as corrected was not a truthful or complete account of your conversation with Detective Yaratch.

The corrections further are misleading with regard to your contact with Judge Stoddard

because they do not respond fully and accurately to the question propounded to you, namely, (a) “Did you do anything in response to that development in the case?”; (b) “Did you contact Judge Stoddard?”; (c) “Did you telephone him, contact him in any way?” and (d) “Did you go see him?” These questions were not restricted to any specific date and require you to disclose the contact with Judge Stoddard described in paragraph 1(c) above, and you failed to do so.

6. On or about July 10, 1999, in Tampa, Florida you lent the prestige of your judicial office to advance the private interest of a personal friend Jeanne T. Tate, Esquire. In furtherance of your friend’s interests you drafted or participated in the drafting and subsequently signed a Temporary Injunction Order prohibiting “The City of Tampa, Sonny’s Tree Service and any and all agents thereof...” from “cutting down or in any way damaging the trees” in front of Ms. Tate’s law firm located on the west side of Hyde Park Boulevard, between Platt Street and Deleon Street in Hillsborough County. Said Order was executed by you without notice to The City of Tampa and/or Sonny’s Tree Service and served upon a representative of Sonny’s Tree Service by a City of Tampa uniform police officer at your direction. (See Temporary Injunction Order attached as Exhibit “A”.)
7. On or about July 29, 1999, in Tampa, Florida you lent the prestige of your judicial office to advance the private interest of your brother James T. Holloway, Esquire. In furtherance of your brother’s interests you entered the front office of the Honorable Judge Katherine G. Essrig, the presiding Judge in your brother’s uncontested divorce and in the presence of others asked Judge Essrig to handled your brother’s case out of turn as he had an airplane to catch.

The acts described above, if they occurred as alleged, were in violation of Canons 1, 2, 3, and 5 of the Code of Judicial Conduct. These acts, if they occurred as alleged, would further impair the confidence of the citizens of this state in the integrity of the judicial system and in you as a judge, would constitute conduct unbecoming a member of the judiciary, could demonstrate your present unfitness to hold the office of judge, and could warrant discipline, including removal from office, and discipline as an attorney.

PLEASE TAKE NOTICE in accordance with the provisions of the Rules of the Florida Judicial Qualifications Commission, as revised, that you have twenty (20) days following service of this notice to file a written answer to these charges.

Date this ____ day of June, 2001.

INVESTIGATIVE PANEL OF THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION

By: _____
JAMES R. WOLF
Chairman, Judicial Qualifications Commission

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail to: Honorable Judge James R. Wolf, Esq., First District Court of Appeals, 301 S. Martin Luther King Boulevard, Tallahassee, Florida, 23299, Scott K. Tozian, Esq., Smith & Tozian, P.A., 109 North Brush Street, Suite 150, Tampa, Florida 33602; Michael S. Rywant, Esq., Rywant, Alvarez Jones, Russo & Gyrton, 109 North Brush Street, Tampa, Florida 33601, Brooke Kennerly, Executive Director, Judicial Qualifications Commission, Mount Vernon Square, 1110 Thomasville Road, Tallahassee, Florida, 32303, John Beranek, Esq., Ausley & McMullen, Washington Square Building, 227 Calhoun Street, Tallahassee, Florida and 32302, this _____ day of June, 2001.

By: _____
James R. Wolf, Chairman
Judicial Qualifications Commission